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S.J., Appellant)	
)	
and)	Docket No. 17-0636
)	Issued: May 4, 2018
U.S. POSTAL SERVICE, POST OFFICE,)	
Fort Worth, TX, Employer)	
)	

Case Submitted on the Record

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
ALEC J. KOROMILAS, Alternate Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On January 30, 2017 appellant filed a timely appeal from a December 22, 2016 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

The issue is whether appellant has met her burden of proof to establish that her diagnosed right knee condition is causally related to factors of her federal employment.

On June 24, 2016 appellant, then a 65-year-old sales, service, and distribution associate, filed an occupational disease claim (Form CA-2) for a knee condition that she attributed to performing her work duties. She indicated that her job required her to stand at a window and to lift packages into a container while turning her body. Appellant noted that she felt throbbing pain

¹ 5 U.S.C. § 8101 *et seq.*

in her knees when she walked to retrieve packages and that she experienced muscle spasms when she pushed mail containers and other objects.² She indicated that she first became aware of her claimed condition on November 4, 2015 and first realized on June 23, 2016 that it was caused or aggravated by factors of her federal employment. Appellant did not stop work.

In a July 6, 2016 development letter, OWCP requested that appellant submit additional evidence in support of her claim, including a physician's opinion supported by a medical explanation as to how her work activities caused, contributed to, or aggravated her medical condition. It requested that she provide additional description of her specific work duties/activities. On July 6, 2016 OWCP also requested additional information from the employing establishment about appellant's work tasks, including the frequency and duration that she performed them. It provided appellant and the employing establishment 30 days to submit a response. Neither appellant, nor the employing establishment responded to OWCP's request for additional evidence/information in the allotted period.

In an August 8, 2016 decision, OWCP denied appellant's claim, finding that she failed to establish the medical aspect of the fact of injury requirement. It indicated that she failed to submit any medical evidence containing a "medical diagnosis in connection with the injury and/or events."

On October 3, 2016 appellant requested reconsideration of OWCP's August 8, 2016 decision. In an accompanying September 26, 2016 statement, she indicated that her work required her to bend and stoop in order to lift bulky and/or heavy packages weighing up to 70 pounds. Appellant indicated that she lifted these packages from hampers/containers and placed them into receptacles for shipping.

Appellant submitted a May 18, 2016 report from Dr. Christopher R. Mann, an attending Board-certified occupational medicine physician and osteopath. Dr. Mann noted that appellant reported working for the employing establishment for 30 years as a mail clerk, and the last 8 years as a window clerk. Appellant reported that she was performing her regular job duties on November 4, 2015 when she sustained an "insidious onset [sic]" of a catching/grinding sensation in her right knee, a condition which had progressively worsened over time. Dr. Mann indicated that appellant advised that the condition developed when she was lifting some heavy mail bundles and she felt a pop in her right knee. He further noted that appellant's job required her to repeatedly lift heavy mail tubs, push and pull heavy cans/containers, and load/unload mail multiple times each day. In 2013 appellant received treatment for a flare-up of her right knee condition and that, after treatment which included chiropractic care, she was able to return to work full duty. Dr. Mann noted, "This right knee injury is an aggravation of a preexisting injury."

Dr. Mann reported the physical findings of his May 18, 2016 examination, noting that appellant ambulated into the room with some noticeable limping on the right side. With respect to appellant's right knee, he noted that McMurray's test was positive for medial collateral ligament tear and that there was positive laxity and tenderness to palpation of the medial collateral ligament. Appellant's right knee displayed increased crepitus and mild anterior effusion. Dr. Mann indicated that there were no positive test results for the left knee and that sensory examination of the lower

² Appellant indicated that sometimes her knees gave way due to weakness and she could not move. She reported that her right knee condition was worse than her left knee condition.

extremities yielded normal results. He diagnosed osteoarthritis of the right lower leg and medial collateral ligament sprain of the right knee. Dr. Mann opined that appellant had sustained a work-related injury to her right knee as a direct result of the activities she performed daily as a “mail clerk.” He then essentially repeated the factual history as reported to him by appellant. Dr. Mann opined that appellant’s employment factors of repeatedly engaging in lifting, pushing/pulling, and loading/unloading while twisting her knees had caused the injuries to her right knee. He indicated that, after full review of the available records, additional diagnostic testing probably would be needed and he ordered a magnetic resonance imaging (MRI) scan of the right knee “for further evaluation.” Dr. Mann noted that appellant would continue working on a full-duty basis.

The findings of a May 24, 2016 MRI scan of appellant’s right knee contained an impression of severe degenerative arthrosis of the medial compartment with maceration and medial extrusion of the medial meniscus along with large osteophytes, grade 4 cartilage changes with subchondral cystic changes (bone on bone appearance) in the medial femoral condyle and medial tibial plateau, mild osteophytes in the lateral compartment and patellofemoral compartment, and small Baker cyst without rupture or leakage.

In a December 22, 2016 decision, OWCP denied appellant’s claim for an employment-related condition. It modified its August 8, 2016 decision to reflect that appellant established the medical aspect of the fact of injury requirement by submitting Dr. Mann’s May 18, 2016 report. However, OWCP found that appellant failed to submit rationalized medical evidence sufficient to establish causal relationship. It determined that Dr. Mann’s May 18, 2016 report did not contain adequate medical rationale regarding the matter of causal relationship.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that the injury was sustained while in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.⁴ To establish fact of injury, an employee must submit evidence sufficient to establish that he or she experienced a specific event, incident, or exposure occurring at the time and place, and in the manner alleged.⁵ An employee must also establish that such event, incident, or exposure caused an injury.⁶ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.⁷

³ *Supra* note 1.

⁴ 5 U.S.C. § 8101(1); *B.B.*, 59 ECAB 234 (2007); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *J.C.*, Docket No. 16-0057 (issued February 10, 2016); *E.A.*, 58 ECAB 677 (2007).

⁶ *Id.*

⁷ *R.H.*, 59 ECAB 382 (2008); *Ellen L. Noble*, 55 ECAB 530 (2004).

OWCP regulations define the term “[o]ccupational disease or illness” as a condition produced by the work environment over a period longer than a single workday or shift.⁸ To establish that an injury was sustained in the performance of duty in an occupational disease claim, an employee must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁹

The medical evidence required to establish causal relationship generally is rationalized medical opinion evidence.¹⁰ The opinion of the physician must be based on a complete and accurate factual and medical background of the employee, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established employment factors.¹¹

ANALYSIS

The Board finds that appellant has not met her burden of proof to establish causal relationship.

Appellant claimed that she sustained an occupational disease due to her work duties which included standing, walking, and engaging in twisting, bending, and stooping while lifting bulky and/or heavy packages and placing them into receptacles. The Board notes that, while OWCP has accepted the existence of these work factors, appellant failed to submit rationalized medical evidence sufficient to establish causal relationship between her work duties and a diagnosed medical condition.

Appellant submitted a May 18, 2016 report in which Dr. Mann diagnosed osteoarthritis of her right lower leg and medial collateral ligament sprain of her right knee. Dr. Mann opined that appellant had sustained a work-related injury to her right knee as a direct result of the activities she performed daily as a “mail clerk.”¹² The Board finds, however, that the submission of this report does not establish appellant’s claim for an employment-related right knee condition because Dr. Mann did not provide adequate medical rationale in support of his opinion on causal relationship. The Board has held that a report is of limited probative value regarding causal

⁸ 20 C.F.R. § 10.5(q); *see also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.800.2b (June 2011).

⁹ *D.H.*, Docket No. 15-1876 (issued January 29, 2016); *D.I.*, 59 ECAB 158 (2007); *Victor J. Woodhams*, 41 ECAB 345 (1989).

¹⁰ *F.S.*, Docket No. 15-1052 (issued July 17, 2015); *Tomas Martinez*, 54 ECAB 623 (2003).

¹¹ *P.K.*, Docket No. 08-2551 (issued June 2, 2009); *John W. Montoya*, 54 ECAB 306 (2003).

¹² The Board notes that, at the time appellant filed her occupational disease claim, the official title of her job was sales, service, and distribution associate. Dr. Mann also indicated that appellant reported that in 2013 she received treatment for a flare-up of her right knee condition and he noted, “This right knee injury is an aggravation of a preexisting injury.”

relationship if it does not contain medical rationale explaining how an employment activity could have caused or aggravated a medical condition.¹³

In support of his opinion on causal relationship, Dr. Mann opined that appellant's work duties of repeatedly engaging in lifting, pushing/pulling, and loading/unloading while twisting her knees had caused the injuries to her right knee. However, he did not describe her work duties in any detail. For example, Dr. Mann did not detail the frequency and duration that appellant performed her various work duties over time. He did not describe the medical process through which her work duties could have caused or aggravated the diagnosed right knee conditions. Dr. Mann did not explain how objective findings on physical examination and diagnostic testing supported his opinion on causal relationship. In fact, his opinion on causal relationship appears to be primarily based on appellant's reporting of right knee symptoms during a period of employment. The Board has held that the fact that a condition manifests itself or worsens during a period of employment¹⁴ or that work activities produce symptoms revelatory of an underlying condition¹⁵ does not raise an inference of causal relationship between a claimed condition and employment factors. Dr. Mann's May 18, 2016 report is of limited probative value in establishing appellant's claim for an employment-related occupational condition for the further reason that it is not based on a complete factual and medical history.¹⁶ For example, he indicated that she reported that in 2013 she received treatment for a flare-up of her right knee condition, but he did not provide any clear discussion regarding whether this flare-up had a work-related or nonwork-related cause. Moreover, Dr. Mann did not adequately consider whether appellant's reported right knee symptoms were entirely due to the natural progression of an underlying degenerative condition.

Appellant also submitted the findings of a May 24, 2016 MRI scan of her right knee which documented various right knee conditions, including degenerative changes of the medial, lateral, and patellofemoral compartments of the knee. However, this report would not establish appellant's claim for an employment-related right knee condition because it does not contain any opinion on the cause of the medical condition(s) described therein. The Board has held that medical evidence which does not offer an opinion regarding the cause of an employee's condition is of no probative value on the issue of causal relationship.¹⁷

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

¹³ See *Y.D.*, Docket No. 16-1896 (issued February 10, 2017).

¹⁴ *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

¹⁵ *Richard B. Cissel*, 32 ECAB 1910, 1917 (1981).

¹⁶ See *supra* note 10.

¹⁷ See *Charles H. Tomaszewski*, 39 ECAB 461 (1988).

CONCLUSION

The Board finds that appellant has not met her burden of proof to establish that her diagnosed right knee condition is causally related to factors of her federal employment.

ORDER

IT IS HEREBY ORDERED THAT the December 22, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 4, 2018
Washington, DC

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board